

From: Ohel Eluzer
161 Harrison Ave.
Brooklyn, NY 11208

To: Marlene H. Dortch, Secretary
Federal Communications Commission
Office of the Secretary
445 12th Street, SW
Washington, DC 20554

Subject: Appeal of USAC Funding Decision - Docket 02-6

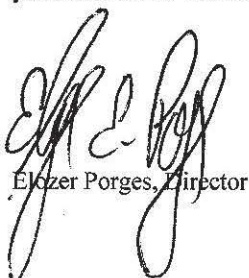
Request For Review

From: Elozer Porges
BEN # 16025528

We would like to appeal the decision by USAC to rescind funding for FRN 2411729 of form 471 # 886168.

On the Notification of Commitment Adjustment Letter dated 04/10/2010 it states: . After multiple requests for documentation and application review, it has been determined that this funding commitment must be rescinded in full. The applicant did not have a contract in place at the time of submission of the FCC Form 471. This determination was based on the contract, the E-Rate Rider, was signed by the applicant on 06/28/2013 which is after the Certification Postmark Date of 1/17/2013 for FCC Form 471# 886168. FCC rules require applicants to have a valid contract as defined by the applicants state procurement laws and regulations at the time they submit the FCC Form 471. Since the applicant was unable to demonstrate that they had a contract in place at the time of submission of the FCC Form 471 that meets the state laws definition of a valid contract, the commitment has been rescinded in full and USAC will seek recovery of any improperly disbursed funds from the applicant.

We had previously appealed this decision directly with USAC, but our appeal was denied without directly responding to our argument that this service is actually received on a month-to-month basis thus no contract is needed. The rider was only meant to guarantee the vendor that the school will be responsible to pay the vendor the full 100% (not just the 10%) in the event that USAC does not pay the vendor in a reasonable timeframe. In the USAC rules listed in the form 471 instructions, it states, if the billing arrangement signifies that you are receiving your services on a month-to-month basis than no contract is needed.



Elozer Porges, Director

To: Letter of Appeal

Schools and Libraries Division - Correspondence Unit

30 Lanidex Plaza West - PO Box 685

Parsippany, NJ 07054-0685

Fax; 973-599-6542

From: Elozer Porges

BEN # 16025528

We would like to appeal the decision by USAC to rescind funding for FRN 2411729 of form 471 # 886168.

On the Notification of Commitment Adjustment Letter dated 04/10/2010 it states: . After multiple requests for documentation and application review, it has been determined that this funding commitment must be rescinded in full. The applicant did not have a contract in place at the time of submission of the FCC Form 471. This determination was based on the contract, the E-Rate Rider, was signed by the applicant on 06/28/2013 which is after the Certification Postmark Date of 1/17/2013 for FCC Form 471# 886168. FCC rules require applicants to have a valid contract as defined by the applicants state procurement laws and regulations at the time they submit the FCC Form 471. Since the applicant was unable to demonstrate that they had a contract in place at the time of submission of the FCC Form 471 that meets the state laws definition of a valid contract, the commitment has been rescinded in full and USAC will seek recovery of any improperly disbursed funds from the applicant.

We are appealing this decision because according to the USAC rules listed in the form 471 instructions, it states, if the billing arrangement signifies that you are receiving your services on a month-to-month basis than no contract is needed. The services we receive from Jay Tel are clearly billed as month-to-month. During the review we explained that the rider that we signed on June 2013 was not meant as contract. It was not meant to commit ourselves to the vendor for any specific time frame. We are clearly allowed to change vendors at any time. The rider was only meant to guarantee the vendor that the school will be responsible to pay the vendor the full 100% (not just the 10%) in the event that USAC does not pay the vendor in a reasonable timeframe.

Elozer Porges, Director

Elozer Porges
Ohelelozer
161 Harrison Avenue
Brooklyn, NY 11205

Billed Entity Number: 16025528
Form 471 Application Number: 886168
Form 486 Application Number:



Universal Service Administrative Company
Schools & Libraries Division

Administrator's Decision on Appeal – Funding Year 2013-2014

May 20, 2014

Elozer Porges
Ohelelozer
161 Harrison Avenue
Brooklyn, NY 11205

Re: Applicant Name: OHELELOZER
Billed Entity Number: 16025528
Form 471 Application Number: 886168
Funding Request Number(s): 2411729
Your Correspondence Received: May 01, 2014

After thorough review and investigation of all relevant facts, the Schools and Libraries Division (SLD) of the Universal Service Administrative Company (USAC) has made its decision in regard to your appeal of USAC's Funding Year 2013 Notification of Commitment Adjustment Letter for the Application Number indicated above. This letter explains the basis of USAC's decision. The date of this letter begins the 60 day time period for appealing this decision to the Federal Communications Commission (FCC). If your Letter of Appeal included more than one Application Number, please note that you will receive a separate letter for each application.

Funding Request Number(s): 2411729
Decision on Appeal: **Denied**
Explanation:

- After multiple requests for documentation and application review, USAC determined to rescind the funds committed under the above listed FRN in full. The applicant did not have a contract in place at the time of submission of the FCC Form 471. This determination was based on the contract, the E-Rate Rider, was signed by the applicant on 06/28/2013 which is after the Certification Postmark Date of 01/17/2013 for FCC Form 471 Application Number 886168. FCC rules require applicants to have a valid contract as defined by the applicant's state procurement laws and regulations at the time they submit the FCC Form 471. Since the applicant was unable to demonstrate that they had a contract in place at the time of submission of the FCC Form 471 that meets the state laws definition of a valid contract, the commitment was rescinded in full and USAC will seek recovery of any improperly disbursed funds from the applicant.

- USAC has determined, that at the time you submitted your FCC Form 471 application, you did not have a contract with your service provider(s), which met your state and local or the FCC's definition of a contract. Except for services to be delivered under non-contracted tariff or month-to-month arrangements, FCC rules require that applicants submit a completed FCC Form 471 "upon signing a contract for eligible services." The services you requested are not non-contracted tariff or month-to-month services. See 47 C.F.R. sec. 54.504(a). In your appeal, you did not demonstrate that USAC's decision was incorrect. As USAC does not have authority to waive the FCC rules of the program, your appeal is denied.

Since your appeal was denied in full, dismissed or cancelled, you may file an appeal with the FCC. Your appeal must be postmarked within 60 days of the date on this letter. Failure to meet this requirement will result in automatic dismissal of your appeal. You should refer to CC Docket No. 02-6 on the first page of your appeal to the FCC. If you are submitting your appeal via United States Postal Service, send to: FCC, Office of the Secretary, 445 12th Street SW, Washington, DC 20554. Further information and options for filing an appeal directly with the FCC can be found under the Reference Area/"Appeals" of the SLD section of the USAC website or by contacting the Client Service Bureau. We strongly recommend that you use the electronic filing options.

We thank you for your continued support, patience and cooperation during the appeal process.

Schools and Libraries Division
Universal Service Administrative Company